

PUBLIC CHAPTER NO. 245**HOUSE BILL NO. 822****By Representatives Hood, Kevin Brooks, Floyd, Rowland****Substituted for: Senate Bill No. 1147****By Senators Black, Ketron, Raymond Finney, Burks**

AN ACT to amend Tennessee Code Annotated, Section 36-6-106, relative to child custody and visitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-106(a), is amended by deleting the current language in its entirety and by substituting instead the following:

(a) In a suit for annulment, divorce, separate maintenance, or in any other proceeding requiring the court to make a custody determination regarding a minor child, such determination shall be made upon the basis of the best interest of the child. The court shall consider all relevant factors including the following where applicable:

(1) The love, affection and emotional ties existing between the parents or caregivers and child;

(2) The disposition of the parents or caregivers to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent or caregiver has been the primary caregiver;

(3) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment; provided, that where there is a finding, under § 36-6-106(a)(8), of child abuse, as defined in §§ 39-15-401 or 39-15-402, or child sexual abuse, as defined in § 37-1-602, by one (1) parent, and that a non-perpetrating parent or caregiver has relocated in order to flee the perpetrating parent, that such relocation shall not weigh against an award of custody;

(4) The stability of the family unit of the parents or caregivers;

(5) The mental and physical health of the parents or caregivers;

(6) The home, school and community record of the child;

(7)

(A) The reasonable preference of the child if twelve (12) years of age or older;

(B) The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(8) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; provided, that where there are allegations that one (1) parent has committed child abuse, as defined in §§ 39-15-401 or 39-15-402, or child sexual abuse, as defined in § 37-1-602, against a family member, the court shall consider all evidence relevant to the physical and emotional safety of the child, and determine, by a clear preponderance of the evidence, whether such abuse has occurred. The court shall include in its decision a written finding of all evidence, and all findings of facts connected thereto. In addition, the court shall, where appropriate, refer any issues of abuse to the juvenile court for further proceedings;

(9) The character and behavior of any other person who resides in or frequents the home of a parent or caregiver and such person's interactions with the child; and

(10) Each parent or caregiver's past and potential for future performance of parenting responsibilities, including the willingness and ability of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, consistent with the best interest of the child.

SECTION 2. Tennessee Code Annotated, Section 36-6-106, is further amended by inserting the following as a new subsection (c) thereto:

(c) As used in this section, "caregiver" has the meaning ascribed to that term in §37-5-501.

SECTION 3. Nothing in this act shall be construed to affect or diminish the constitutional rights of parents that may arise during and are inherent in custody proceedings.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 10, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 24th day of May 2007



PHIL BREDESEN, GOVERNOR